



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2919

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

725 ILCS 5/110-2

from Ch. 38, par. 110-2

Amends the Code of Criminal Procedure of 1963. Provides if the court is of the opinion that the defendant will appear as required either before or after conviction and the defendant will not pose a danger to any person or the community and that the defendant will comply with all conditions of bond the defendant must be released on his or her recognizance (rather than may be released on his or her recognizance). Requires the court to consider several release factors in reaching its opinion on release of the defendant on his or her recognizance and before considering monetary bail.

LRB099 08143 MRW 28293 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 110-2 as follows:

6 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

7 Sec. 110-2. Release on own recognizance.

8 (a) When from all the circumstances the court is of the
9 opinion that the defendant will appear as required either
10 before or after conviction and the defendant will not pose a
11 danger to any person or the community and that the defendant
12 will comply with all conditions of bond, which shall include
13 the defendant's current address with a written admonishment to
14 the defendant that he or she must comply with the provisions of
15 Section 110-12 of this Code regarding any change in his or her
16 address, the defendant must ~~may~~ be released on his or her own
17 recognizance. In making the opinion, the court shall consider
18 the following factors:

19 (1) whether the defendant is at least 18 years of age;

20 (2) any recommendations of release or conditions,
21 evaluations, or risk assessments of the defendant by
22 pretrial services;

23 (3) whether release would reasonably assure his or her

1 appearance in court when required;

2 (4) that the safety of any other person or the
3 community does not require the detention of the defendant;

4 (5) whether the defendant will obstruct or attempt to
5 obstruct the criminal justice process;

6 (6) whether the defendant produced satisfactory
7 evidence of his or her identity;

8 (7) whether the defendant exhibited behavior which
9 required exertion of physical force to effectuate the
10 arrest or control of the defendant by the arresting
11 officer, a correctional officer, or a correctional
12 employee;

13 (8) whether the defendant demonstrated behavior that
14 would pose a danger to any person or the community;

15 (9) whether the defendant has been convicted or found
16 guilty in any jurisdiction as an adult or juvenile for a
17 violation involving the use or threat of physical force or
18 violence; and

19 (10) whether the defendant is the subject of a pending
20 arrest warrant, prosecution, order of protection, or other
21 criminal proceeding.

22 (b) The defendant's address shall at all times remain a
23 matter of public record with the clerk of the court. A failure
24 to appear as required by such recognizance shall constitute an
25 offense subject to the penalty provided in Section 32-10 of the
26 Criminal Code of 2012 for violation of the bail bond, and any

1 obligated sum fixed in the recognizance shall be forfeited and
2 collected in accordance with subsection (g) of Section 110-7 of
3 this Code.

4 (c) This Section shall be liberally construed to effectuate
5 the purpose of relying upon contempt of court proceedings or
6 criminal sanctions instead of financial loss to assure the
7 appearance of the defendant, and that the defendant will not
8 pose a danger to any person or the community and that the
9 defendant will comply with all conditions of bond.

10 (d) Monetary bail should be set only after consideration of
11 release factors under subsection (a) of this Section and when
12 it is determined that no other conditions of release will
13 reasonably assure the defendant's appearance in court, that the
14 defendant does not present a danger to any person or the
15 community and that the defendant will comply with all
16 conditions of bond.

17 (e) The State may appeal any order permitting release by
18 personal recognizance.

19 (Source: P.A. 97-1150, eff. 1-25-13.)